

Arlington Conservation Commission
Minutes
February 15, 2018

Mr. Stevens called the meeting to order at 7:30 p.m. in the second floor conference room of the Town Hall Annex. Present were Commission Members Nathaniel Stevens, David White, Curt Connors, Susan Chapnick, Charles Tirone, Pam Heidell, and Associate Commissioner Cathy Garnet. Absent were Commission Member Mike Nonni and Conservation Agent Lela Shepherd. Also present were DeAnne Dupont, John Hurd, Larry Slotnick, Lynn Birkerts, Sven Birkerts, Mary Trudeau, Peter Musial, Dan Klebanov, Aimee D'Onofrio, Ben Ferber, and Harold Boucher.

Administrative:

2/1/2018 Minutes

Edits to the draft Minutes were discussed, D. White motioned to approve the minutes as edited; C. Connors seconded; all were in favor, motion carried.

Enforcement – 630 Summer Street

Mr. Sean Galvin's attorney, John Hurd, represented the owner concerning a plan for future snow removal to keep snow out of the wetlands in the back of 630 Summer Street.

C. Tirone said the owner can use lawn area for snow storage so the snow would not be dumped into the wetlands. He recommended that temporary orange construction fencing be placed around the lawn area in each winter to clearly mark the allowable area for snow storage. When the snow melts, it would be owner's responsibility to clean up any remaining debris from the lawn.

Mr. Hurd agreed to a temporary fence to demarcate the area and agreed to put this up prior to anticipated snow forecast for the coming weekend.

Two sides and the back would be off-limits; only the grassy area behind the 626 Summer Street building would be acceptable for snow storage.

C. Tirone recommended the owner submit a snow cleanup plan with a drawing of the temporary fence on the plot plan. The Commission requested that the owner report on snow removal and snow storage this year and next year (winter 2018-2019) to show compliance.

Mr. Hurd will present the snow plan for 630 Summer Street at the Commission's next meeting for review, March 1st, at 8pm. Mr. Hurd will send plan prior to the next meeting.

Enforcement – 67 Dothan Street

Sven and Lynn Birkerts, owners were present. They said they did not receive the first notice sent by the Commission via US mail. They explained that they have pumps in the basement with a pipe going out toward the driveway. However, S. Chapnick had directly observed a pipe going into Reeds Brook. The owners explained that they recently removed this pipe and put in a different pipe with a left-hand elbow to discharge sump pump water onto the lawn. They presented pictures to the Commission of the new pipe. They presented a jar of clear water they said was from the pipe. S. Chapnick asked how far this pipe discharged away from Reeds Brook. They didn't know but estimated it was about 20 yards from the brook.

The Commission asked if our Conservation Agent, L. Shepherd, could come out to confirm the compliance of the new pipe. They agreed that L. Shepherd could stop by and check out the pipe anytime. No further action required pending on-site inspection of the new discharge pipe.

Working Session – Food Link

Dianne Dupont and Larry Slotnick represented Food Link, which is a food rescue organization that works to collect food from neighborhood groceries and re-distribute to those in need.

They wanted to understand the constraints of building / construction near a resource area since they were considering a property near the Mystic River in Arlington. The Commission explained our jurisdiction as 200 feet from river. In addition, site may be in floodplain. Mr. Slotnick said about 1/3 of the property is likely within the 200-foot area and was not sure about the floodplain. The property is a former gas station with existing

underground tanks. C. Connors and S. Chapnick explained about the potential of such a property to have contamination considered as hazardous waste, which is regulated under different laws than those for work in or near wetlands.

Mr. Slotnick stated that they would potentially want to replace the current building on the property and explained that the property is all impervious surface. C. Tirone explained that if they want to build, there would have to be some improvements in the Riverfront area as mitigation for construction, even keeping the same footprint.

S. Chapnick warned that they should be concerned about Vapor Intrusion, which is toxic vapors entering the building from potential groundwater or soil contamination of volatile organic compounds from the gas station. S. Chapnick and C. Connors recommended that they hire a Licensed Site Professional (LSP), who are the environmental professionals in MA that assess and cleanup contamination, to evaluate the current contamination that might be present in soil or groundwater and the potential for Vapor Intrusion.

N. Stevens recommended they might want to consult an environmental attorney about potential liability issues if contamination is found.

Deliberation of Notice of Intent – 47 Spy Pond Lane Lots 1 (A) and 2 (B)

The Commission discussed the pending NOIs under the Bylaw, including the differences between the current NOI and the prior NOI for each lot, which were denied under both the Act and Bylaw. The differences discussed were that the current NOI provides for the following:

1. 0 to 25-foot zone from Spy Pond, within the Adjacent Upland Resource Area (AURA) for native plantings plus deed restriction
2. Potential to move building 1 foot further away from Spy Pond, still within the AURA. The applicant agreed conceptually to this but it is not on the current plans.
3. Applicant suggested the addition of a stone wall at 25-feet from Spy Pond, to surround and protect the proposed native plantings. This structure is not on the current plans.
4. New paths 8 feet on each lot for a total of 16 feet in width on current plans to allow access to Spy Pond. Applicant agreed that these paths could be reduced to 6 feet on each lot.
5. Sycamore being removed on Lot 1 would be replaced by 2 sycamore trees as agreed to by Applicant but not presented on the current plan.

The Commission agreed that while the current projects as explained in the NOIs and the prior public meetings is an improvement over prior NOI due to more extensive vegetation planting, the projects still do not comply with the Commission's regulations.

C. Connors reminded the Commission that these are not two lots yet and that the alternatives analysis submitted by the Applicant is still not adequate to explain why they could not change the substantial size of the houses right down to the 50 foot from Spy Pond, which is 50-feet into the AURA.

P. Heidell stated that two smaller houses, one on each lot, could have more square footage of livable area with smaller footprints and these could have been considered as practical alternatives to the proposed houses. N. Stevens concurred that the Applicant could have decent size houses without any encroachment or even less encroachment into the AURA.

N. Stevens reprised the submittals of properties recently sold in Arlington with smaller footprints, 2600 square feet of living area, with an average selling price of \$370 per square foot. All sold for greater than \$1million. Therefore, he considers smaller houses as a practical alternative based on market research. Other Commission members concurred.

C. Tirone said that the Applicant is "requiring" a 2 car garage and other large-house amenities that they maintain is necessary to sell the house in this neighborhood. C. Tirone said that the market research does not bear this out. He pointed out that the Kelwyn Manor neighborhood of Spy Pond has many smaller houses than the ones proposed. Therefore, C. Tirone maintains that the Applicant could easily sell smaller houses in

this area though agreed that the updated plans are an improvement over the prior NOI.

N. Stevens is conflicted on the proposed stone wall because it doesn't have passage for wildlife; however, it would be fieldstone with cracks and nooks. C. Tirone thought this was acceptable since wildlife could climb over these types of low stone walls.

The Commission reviewed that the applicant is arguing that the enhanced vegetation mitigation is acceptable for the incursion into the AURA. Commission discussed that this is some improvement but does not fully counter the effect of building in the AURA (100-feet of Spy Pond).

C. Connors motioned to deny permit for Lot #1 under the Arlington Bylaw and Arlington Wetland Regulations; C. Tirone seconded.

Discussion on Findings proceeded, including reasons for the denial discussed as: 1) insufficient applicable Alternatives analysis for reasons discussed, 2) increase in impervious surface within the AURA and encroachment into the AURA; 3) loss of Habitat area; 4) proposed mitigation of 25 foot buffer zone not sufficient to offset potential permanent effects of project on resource area

The Commission discussed similarities and differences to 88 Coolidge for comparison purposes including that the most, if not the entire 88 Coolidge lot was within the AURA, such that alternatives outside of the AURA were not applicable; the Applicant at 88 Coolidge reduced the footprint of the proposed house significantly in response to the Commission; the resource area of 88 Coolidge is downgradient in a corner of the lot vs. abutting a large water body such as Spy Pond; and other differences.

C. Garnett stated that the mitigation planting was appropriate but functionalities to support the area were not there and the design would not practically be a viable wildlife habitat area especially for Lot #1 because of the current dock placement and potential path through plantings.

Specific Findings from prior decision were reviewed for applicability and proposed to be modified or deleted based on this discussion.

Vote taken on motion with Findings as discussed; all were in favor, motion carried with 6 Commission members to deny permit for Lot #1.

C. Connors motioned to deny Lot #2 for the same reasons and Findings as for Lot #1, except for design issue of vegetation plantings; C. Tirone seconded.

No further discussion.

Vote taken on motion with Findings as discussed; all were in favor, motion carried with 6 Commission members to deny permit for Lot #2.

Administrative:

Spy Pond CPA Project

Invoice received from Hatch Chester for \$18,678.21 for work performed October 30 – November 24, 2017 and reviewed by C. Garnett to be consistent with the scope and budget. This invoice was for 30% design for construction documentation and permitting.

C. Tirone motioned to approve the invoice for payment; D. White seconded; no discussion; all were in favor, motion carried.

C. Garnett reported to the Commission that she was very impressed with L. Shepherd's work on the DCR Grant for Spy Pond trails to supplement the CPA funding. She stated they received support letters from the Town, the Conservation Commission, the Friends of Spy Pond Park, and others and they were leveraging matching funds. Requesting \$80,000 with 20% match but we have 50% match to-date.

L. Shepherd also wrote a Community Development Block Grant for ADA paths to leverage funds.

C. Garnett reported on the recent working group meeting for Spy Pond to discuss the 60% design plan. She said there was good buy-in from other Town departments.

Union of Concerned Scientists (UCS) Grant

S. Chapnick reported that she assisted N. Strosberg, Town Planner, and L. Shepherd in preparation of a small grant from UCS to support data collection and public education to advance the Municipal Vulnerability Preparedness (MVP) process in the town.

Ecofest

N. Stevens asked if anyone from the Commission was available to represent the Commission at Ecofest. S. Chapnick, D. White, and C. Tirone will attend. S. Chapnick suggested that we should have education material on the Town's MVP workshop.

Wetland Regulations

N. Stevens reported that he is working on draft revisions to incorporate Climate Change and other issues with C. Connors and S. Chapnick and outreach with a Harvard lawyer. N. Stevens requested a continuation of this review.

S. Chapnick motioned to continue the Wetland Regulation revision review to the Commission's next meeting on March 1st at 8:15pm; D. White seconded; No Discussion; all in favor; motion passed.

Water Bodies

D. White presented the Water Bodies Report that was generated by D. White, S. Chapnick, and C. Tirone. He wanted approval from the Commission to submit this report to the Finance Committee in preparation for discussion at their next meeting, on February 26th.

N. Stevens motioned to approve the report and submit to the Finance Committee; C. Connors seconded; No discussion; all were in favor, motion passed.

D. White distributed the Great Meadows Annual Report. The Commission agreed to have D. White forward this report to the Selectman's office.

Wellington Park – Mill Brook Corridor

C. Tirone gave an update on CPA project with MyRWA involving Wellington Park improvements at Mill Brook. L. Shepherd and Nat Strosberg, Arlington Town Planner, will have more responsibility for managing the project with MyRWA. CPA funding for fiscal year 2019 will provide design concepts for a loop trail, which is a potential outcome in the improvements for this project. C. Tirone reported that CPA is likely to approve the second phase of the project. Next public meeting on March 8th.

Meeting was adjourned at 10:04 pm.

Respectfully submitted,

Susan Chapnick
Conservation Commissioner